



WEB COPY



CRP No. 4400 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED :27.11.2023

CORAM :

THE HON'BLE MRS. JUSTICE T.V. THAMILSELVI

Civil Revision Petition No.4400 of 2023

and

CMP.No.26647 of 2023

Muthukumar

... Petitioner

Versus

Deepika

... Respondent

Civil Revision Petition filed Under Section 227 of Constitution of India, praying to struck of the complaint in D.V.C.No.21 of 2023 on the file of Special Court for Domestic Violence Cases against women, Coimbatore.

For Petitioner : Mr.R.C.Paul Kanagaraj

ORDER

The petitioner has filed this petition to stuck of the complaint in D.V.C.No.21 of 2023 pending on the file of the Special Court for Domestic Violence Cases against women, Coimbatore.

2. Heard, Mr.R.C.Paul Kanagaraj, learned counsel for the petitioner and perused the materials available on record.

3. The learned counsel for the petitioner submitted that the de-facto complainant as well as the respondent are not residing at Coimbatore.



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Considering the welfare of the couple who are husband and wife, this Court feels that it has no jurisdiction to discuss the ignorance. However, the challenge is to the proceedings initiated by the Special Court for Domestic Violence Cases against women, Coimbatore.

4. Considering the above, the petitioner is entitled to approach the concerned Magistrate Court itself and raise the issue of maintainability and other preliminary issues and if such an application is filed, the learned Magistrate shall decide the same as per the decision of the Hon'ble Supreme Court in ***Kunapareddy @ Nookala Shanka Balaji Vs. Kunapareddy Swarna Kumari and another*** reported in ***(2016) 11 SCC 774***.

5. On considering the entire facts and circumstances, this Court is of the clear view that the petitioner has not shown any legal ground or reason to quash the complaint and hence, this Court concludes that the Civil Revision is devoid of merits and the same is liable to be dismissed.

6. Regarding the petitioner prayer for dispense with his personal appearance, it is necessary to refer the following direction in ***Arul Daniel's case*** above referred,



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“76.

iv. Personal appearance of the respondent(s) shall not be ordinarily insisted upon, if the parties are effectively represented through a counsel. Form VII of the D.V. Rules, 2006, makes it clear that the parties can appear before the Magistrate either in person or through a duly authorized counsel. In all cases, the personal appearance of relatives and other third parties to the domestic relationship shall be insisted only upon compelling reasons being shown. (See Siladitya Basak v. State of West Bengal (2009 SCC OnLine Cal 1903).”

7. The Hon'ble Full Bench has reiterated the legal position that the proceedings under the Domestic Violence Act are Civil in nature and as such, the respondent in the Domestic Violence complaint cannot be considered as accused and there is absolutely no need or necessity for them to appear for each and every hearing before the learned Magistrate. Hence, the learned Judicial Magistrate is directed not to insist the appearance of the petitioner/respondent on every hearings, but at the same time, the learned Magistrate is at liberty to direct the petitioner/ respondent to appear if their appearance is necessary.



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T.V.THAMILSELVI, J.

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8. Since, the Court has no jurisdiction to entertain the matter, liberty is granted to the revision petitioner to file an appropriate application before the trial Court to work out his remedy. Furthermore, the proceedings are Civil in nature and the appearance of the parties is ordered to be dispensed with. If any such application is filed, the same can be disposed of by the trial Court within a period of 4 weeks from the date of receipt of a copy of this order.

9. With the above observation and direction, this Civil Revision Petition is disposed of. Consequently, connected miscellaneous petition is closed. There shall be no order as to costs.

27.11.2023

Index : Yes/No
Speaking/Non Speaking order
Neutral Citation: Yes/No
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To

1. The Special Court for Domestic Violence Cases against women,
Coimbatore.
2. The Section Officer,
VR-Section, High Court of Madras.